

Staking Claims and Making Waves in the South China Sea: How Troubled Are the Waters?

ALICE D. BA

This article serves as an introduction to the South China Sea dispute, as well as the themes and challenges highlighted by articles in this special issue. It draws attention to the complexity of a dispute that is no longer just about territory but also broader maritime rights, an evolving maritime regime, resources, and increasingly, the role of China as a rising power in East Asia vis-à-vis the United States as the status quo power. It especially highlights how the intersection of US-China issues with what has historically been a regional dispute has significantly raised the stakes for all concerned. It is the conclusion of contributing authors that mismanagement of the South China Sea will carry high, even unacceptable, costs.

Keywords: South China Sea, Spratly Islands, China, Southeast Asia, United States.

After a period of relative calm in the first half of the 2000s, the South China Sea dispute is back in the headlines. A long-running dispute, the South China Sea is now challenging regional relations in ways that it has not before. While the zero-sum nature of competing legal claims and perceived nationalist affronts associated with territorial disputes make them as a general category more challenging for those involved, the South China Sea can also be characterized as especially complex and difficult. The cast of claimants is large and varied (six in all: China, Taiwan, Malaysia, the Philippines, Vietnam and Brunei

ALICE D. BA is an Associate Professor at the Department of Political Science and International Relations, University of Delaware, USA.

— with Taiwan a non-state entity);¹ the legal bases for claims are mixed; the economic stakes are great. Home to some of the busiest sea lanes in the world, more than a quarter of the world's trade pass through the South China Sea each year. Upwards of 80 and 90 per cent of Chinese and Japanese oil imports also traverse through these waters. A rich fishing ground, the South China Sea is also an important resource for the local and national economies of the states involved. This is to say nothing of the potential hydrocarbon resources these waters are speculated to offer in an age of growing resource demand and scarcity.² All these factors have long complicated states' ability to resolve the dispute, but since 2008 the frequency of troubling confrontations between China and the other claimants has increased, as each tries to stake, defend and expand their physical claims via a range of activities. Of note have been efforts by China to detain and "expel" Vietnamese and Philippine fishermen from disputed waters. Most serious have been a number of high-profile exchanges (both diplomatic and naval) between China, the region's rising power, and the United States, the region's status quo power, over maritime rights. Such exchanges have elevated the dispute to a different level of geopolitical attention. While assessments about the likelihood of serious conflict vary, the historical characterization of these waters as being "dangerous ground"³ may be truer today than it has ever been in the past.

The articles in this special issue on the South China Sea offer different perspectives on recent developments. Three of the articles (Goldstein, Thayer and Womack) were originally presented at the 2011 International Studies Association's annual conference in Montreal, where the panel was the subject of lively and engaged discussion. Originally, the panel also included Peter Dutton, whose paper was published elsewhere in the interim.⁴ Though we were sorry to lose Peter, we were fortunate to bring Taylor Fravel onboard in his place. This introduction serves to draw out some common themes and challenges highlighted by the authors and their implications for future developments. In particular, it highlights the various conflicts and tensions that have come to be intertwined with the South China Sea, pushing it to the foreground: conflicts over not just territory but also maritime rights and jurisdiction, resources, and increasingly, the relative influence of China and the United States as the region's (and world's) rising and status quo powers. It is the conclusion of the authors that mismanagement for all concerned, including non-claimants like the United States, will carry high — even unacceptable — costs.

The China Challenge

Among all the actors, China poses the largest challenge in both efforts to resolve and manage maritime and territorial disputes in the South China Sea and the tensions associated with them. This is not to say that other actors do not present their own challenges, but China nevertheless stands out as one particular problem. Reasons for this include the mixed bases of China's claims (United Nations Law of the Sea or UNCLOS, historic rights and use, a U-shaped/nine-dashed line map); the opaqueness and contradictions associated with China's decision-making process; and perhaps, most of all, China's growing power. While assessments vary in some notable ways, it is no coincidence that China factors large in each of the articles that follows.

Of Law and Claims

One factor that has complicated efforts to resolve the disputes regard the mixed bases on which states stake their claims.⁵ UNCLOS has also had mixed effects on the dispute. On the one hand, it provides a common legal framework and referent as all states involved in the South China Sea disputes are now signatories and base their claims either partly or entirely on it. This includes China, whose recent submissions to the United Nations Commission on the Limits of the Continental Shelf (CLCS) also make clear reference to UNCLOS as the basis for its claims.⁶ On the other hand, UNCLOS has also been a source of new claims, as well as a precipitating driver of disputes in recent years, as states seek to establish and consolidate their maritime holdings and jurisdictions under this relatively new maritime regime.⁷

China's claims are especially mixed, drawing on UNCLOS, but also historic rights and a 1947 map in which the South China Sea is delimited by nine dashes. Moreover, as authors in this issue detail, each of these bases is made more complicated by "ambiguities" contained within them. What constitutes "historic rights"? What exactly is included or claimed within those nine-dashes? Even China's exclusive economic zone (EEZ) and territorial sea claims under international law contain a question given that few of the Spratly land features constitute "islands" under UNCLOS.⁸

The challenges associated with the ambiguities of both international law and China's claims are evident in recent developments. At least in part, the recent intensification of disputes trace back to a UN deadline on the submission of continental shelf claims in

May 2009, at which time Malaysia and Vietnam made submissions to extend their continental shelves from 200 nautical miles to 350 nautical miles into the South China Sea. That, in turn, prompted responses from both the Philippines and China, the latter of which responded with a *note verbale*. As Womack and Fravel note, neither the act of submitting the note nor even the wording contained in the note was that controversial in and of themselves.⁹ As Fravel puts it, if China believes in its claim (which it does), “international law demands that states actively maintain their claims, especially when challenged by other states”.¹⁰ Not to do so would have been tacit acknowledgement or recognition of their claims. Similarly, it is also not surprising that as interest in hydrocarbon exploration has increased, so too have China’s diplomatic objections. Womack further notes that the unresolved nature of disputes means that all sides are under some pressure to act *as if* their claims are legitimate — whether it is to fish, occupy, drill, survey or expel others for “trespassing”. Not to do so would not only be an implicit admission of another’s claim “and the abandonment of one’s own”, but also because such activities are themselves a basis to justify claims, states risk disadvantaging themselves in future negotiations and future efforts to resolve the issue.

The problem in the recent exchange of UN submissions, however, was that China also attached a map — specifically, a contested nine-dashed line map where China appears to claim the South China Sea in its entirety.¹¹ It also was apparently the first time that the map was officially submitted to the UN.¹² The actual wording of the *note verbale* may be a relatively straightforward effort to counter others’ claims and submissions, but the attachment of the map, unexplained and without further elaboration, is not. In a sense, as Douglas Paal puts it, the map allows China to make a broader claim by implication, and that broader claim, at minimum, sits in tension with the relatively cautious approach (and more limited claims) of China’s past UNCLOS filings.¹³ The fact that (to quote Fravel in this issue) Beijing has been either “unwilling or unable” to clarify what exactly China includes or is referencing only aggravates the tension. One can draw one’s own conclusions — as both analysts and other claimants have — but the point is that China has not officially done so. In both referencing the map and not clarifying it, Beijing has also created an opening for other Chinese-domestic actors to interpret for themselves and act based on those interpretations — actions and interpretations that may or may not be consistent with China’s official position or, at least, preferred

policy of its top leadership. As highlighted below and by authors in this issue, maritime issues provide particular examples of how different domestic actors are doing just that. The nine-dash line map had another effect as well — namely, it offered the opportunity, under the guise of international law, for the United States to engage in the dispute more actively.¹⁴

A Question of Strategy

A particular challenge concerning China is also the lack of good information (and at times, contrary information) about the decision-making processes. In this issue, two articles on China's South China Sea strategy offer different insights into the thinking and priorities of China's strategists. Taylor Fravel's piece addresses the larger political calculus behind China's recent actions and approach towards the South China Sea. Lyle Goldstein's article sheds light on a critical actor in these disputes — namely, the Chinese military (and specifically the Chinese navy), which past analyses have identified as the source behind China's hard line positions and push into the South China Sea. As Goldstein details, the Chinese military is an actor most assume a great deal about, but few in fact know very well. Filling in this important knowledge gap is critical for those seeking a better understanding of Chinese strategy. Goldstein's piece offers an important effort towards this goal.

In particular, their articles respond to a perceived contradiction about China's recent priorities and policies. A number of analysts examining recent tensions see a new Chinese assertiveness (for some "aggressiveness") on the South China Sea that seem contrary to China's political and security efforts of the last decade, namely, to convince the world and its neighbours of China's "peaceful rise". Analysts perceive recent actions posing a particular challenge to what most agree have been successful diplomatic and economic efforts in Southeast Asia, where relations, interests, and exchanges have significantly grown.¹⁵ Undeniably, China's recent statements on the South China Sea, administrative/regulatory actions, and patrol manoeuvres, as well as its nine-dashed map, jeopardize what have been hard-won gains. Stein Tønnesson expressed the views of many when he wrote, "It has been astounding to see the speed with which China could throw away the soft power it had managed to build in the region."¹⁶ Of the articles that follow, Fravel's piece most directly speaks to this perceived puzzle of Chinese foreign policy. In his article, he details how states pursuing territorial

claims have three strategic responses available to them (cooperation, escalation and delay). Of these three, China has opted mostly for the last — a strategy of delay and consolidation that is mostly a function of understood naval limitations. By this argument, periods of calm function as a way to “buy time” — time to consolidate one’s abilities, and time to consolidate one’s ability to hold onto the physical gains made.¹⁷

To give emphasis to a strategy of delay is also to highlight the fact that China — though currently, the militarily advantaged claimant — also has the weakest physical claim. As Womack highlights, the importance of physical occupation to one’s legal claims and standing gives states incentives to expand their physical presence. China is no different. However, China has been disadvantaged — and it has been disadvantaged largely for the same reasons that its claims are seen as especially suspect by others, namely, the physical distance that separates China and Spratly land features. In fact, until 1988, China occupied no islands in the Spratly chain¹⁸ in contrast to the thirty or so insular features occupied by Vietnam, the Philippines and Malaysia. That situation fed into Chinese military views at the time that other claimants might be taking advantage of China’s military weakness and domestic distractions.¹⁹ The result was, as Fravel details, a strategy of escalation during the period between 1988 and 1995, before returning once again to its predominant strategy of delay after 1995.²⁰ By this view, the fact that South China Sea was less an issue during the 1995–2009 period — a period in which China-ASEAN relations experienced great improvement — was due to tactical, not substantive, shifts in China’s calculus *vis-à-vis* its Southeast Asian neighbours. During that period, delay served as a form of conflict management and damage control; it also provided time to consolidate gains.

Fravel’s discussion also reminds us that this is not the first time that contradictions have been observed in Chinese foreign policy relating to the South China Sea. Previous studies, focusing on different and specific actors, have tried to make sense of similar tensions in Chinese behaviour and policy. The period from 1988 to 1995, for instance, exhibited similar contradictions between, on the one hand, China’s post-Tiananmen diplomatic efforts to make more regional friends along its periphery and, on the other, China’s legal and physical assertions — “escalation” by Fravel’s framework — in the South China Sea. This contradiction has been explained as a function of intra-bureaucratic politics, with the People’s Liberation Army Navy (PLAN) being the dominant actor.²¹ In the

years immediately after China's 1989 Tiananmen crackdown on demonstrators, the military also enjoyed particular influence *vis-à-vis* a more moderate Ministry of Foreign Affairs.²² As Goldstein in this issue details, this view of the military has become a piece of conventional wisdom.

In Goldstein's survey of recent naval opinion on the South China Sea, he challenges more than one accepted piece of conventional wisdom, beginning with assumptions about Chinese naval opinion and strategy. The Chinese military — perhaps like most militaries — is frequently portrayed as a unified actor, clear in its priorities and equally clear and calculating about the types of strategies to be pursued. Goldstein notes that the common "stereotypical view of the Chinese Navy" is that this is "a group inclined, whether by professional disposition, nationalist inclination, or bureaucratic self-interest to favour aggressive naval expansion."²³ However, Goldstein draws attention to the fact that there is a greater range of opinion among those who work in military circles than commonly assumed. More familiar nationalist positions about the need to be vigilant against encroachment and violations by others sit alongside those that argue for restraint. Goldstein's review of official direct statements by PLAN personnel, official and unofficial naval journals and press, and elite academic circles reveals a "disturbing" trend towards "more hard-line assessments" but also at the same time, a "more complex picture" in which the "red lines" are more "ambiguous" than often portrayed. There remain, for example, significant voices for moderation, especially among those who see the South China Sea disputes (and their associated challenges to both regional and US-China relations) as distracting to more important objectives. Goldstein's attempt at fleshing out these dissonances is an important contribution to the study of this issue.

On the question of strategy, Taiwan and its relationship to China's South China Sea agenda is raised by more than one author in this issue. In particular, authors highlight the challenges of attention associated with dealing with more than one conflict. Thus, as Goldstein details, one strain of Chinese naval strategic thinking expresses concern that "the rivalry over the South China Sea could derail Beijing's strong strategic focus on the Taiwan issue". By the same token, they see Vietnam advantaged in the South China Sea dispute because Vietnam, which no longer has the challenge or priority of reunification, can single-mindedly focus on consolidating its South China Sea claims.²⁴ Similarly, Womack highlights how Taiwan helps explain the recent intensification of South China Sea

developments. Womack draws particular attention to the 2008 election of Taiwanese President Ma Ying-jeou, whose election freed not just China, but also the United States, to “think about somewhere else other than Taiwan.”²⁵

In addition to Taiwan, more moderate voices also raise concerns about how the South China Sea could detract from China’s larger priorities of economic and political development, which, as it turns out, commonly frame the commentaries on different ends of the spectrum. In other words, development — be it the need to secure sufficient resources and military space to support that development or the diplomatic, political and economic support and room that is supportive of a larger comprehensive security and development agenda — provides moderates and non-moderates alike a common legitimating objective and justification. Goldstein suggests that this is an important point because it matters what goals are considered legitimate and what is driving strategy. In this case, it is development (as opposed to territorial control, *per se*, or “hegemonic” control, for example) that is the driving end-goal even for those advocating a more activist naval approach towards the South China Sea. This development justification will likely continue to shape and constrain what Goldstein describes as the ongoing “struggle over policy in the South China Sea between hawks and doves”.

In highlighting the range of opinion that exists in Chinese naval strategic debates, Goldstein’s article, at minimum, speaks to the complexity of China’s decision-making environment, a complexity that is also noted by others working in other areas of Chinese foreign policy.²⁶ That environment is characterized by different (even a growing diversity of) domestic actors and agencies that can work at cross-purposes and not always with authorization from China’s central leadership. The South China Sea and maritime affairs, more generally, in fact offer more than one example of the difficulties of assuming too much about the coherence of Chinese maritime strategy. Ian Storey, for example, has previously drawn attention to the specific case of Mischief Reef on which Chinese structures were built in 1994 and discovered in 1995, precipitating the last South China Sea crisis in China-ASEAN relations before more recent events. Such structures were apparently not authorized by the Chinese leadership but were instead put there independently by the PLAN.²⁷ More recent examples draw attention to local and provincial-level politics as in the case of the so-called “Malacca dilemma”. In that case, Yunnan officials and academics apparently played up the issue of China’s energy security in the interest of building a pipeline to

Myanmar.²⁸ The East China Sea offers a similar but different example — in this case of local and provincial administrative agencies independently encouraging Chinese fishermen to fish further out into the East China Sea. This, of course, increased the likelihood of direct confrontation with Japan, which was what happened in 2010 when Chinese fishermen collided with and were then arrested by the Japanese Coast Guard, precipitating a crisis in China-Japan relations.²⁹ Such tensions and crises of regional relations have been serious enough that China's leadership is now apparently looking into the creation of a higher-level coordinating or advisory unit on maritime affairs, possibly above ministry level, to help reconcile such tensions and avert future crises.³⁰ Such actions would also be consistent with Fravel's discussion of the "pressure from above to harmonize actions with the requirements of Chinese diplomacy", and efforts by top leaders to "unify thought" on the issue.

All this is not to say that China's South China Sea approach is completely without direction. As noted above and by authors here, there are larger goals driving policy. Other analysts like Michael Swaine, for example, have argued that China's leaders have "enunciated and are pursuing a clear, coherent, and largely consistent set of national objectives and priorities" that include "the maintenance of internal order and stability; the sustainment of high levels of growth and prosperity in order to create a 'well-off society' and thus facilitate the revival of the nation by the middle of this century; the protection of the country against foreign and domestic threats to both territory and sovereignty; and the eventual achievement of great power status in Asia and beyond".³¹ Thus, the question appears not to be the "what" (what are the ultimate driving objectives) but the "how" (how does China ensure that those objectives are achieved), and as authors in this issue highlight, the answer to that is one that is always in process, conditioned by shifting power equations but also by the dynamic domestic and international environments of which China and its decision-makers are a part.

What's at Stake?

China-Southeast Asia Relations

Not surprisingly, discussions on the South China Sea draw particular attention to the implications of China's rise for Southeast Asia. Certainly, from the vantage point of China's weaker Southeast Asian neighbours (claimants and non-claimants alike), the expansiveness of

China's claims — the fact that it claims so much of the waters near their coasts — is disturbing, especially given China's growing military capabilities. Recent difficulties in relations are also a reminder of the fact that recent improvements in China-Southeast Asia relations are exactly that — recent — and that diplomatic credibility (let alone trust) remains to be achieved (on both sides). Indeed, as much as China-Southeast Asia relations have improved in recent years, China's recent South China Sea actions, along with its refusal to clarify its claims, play into Southeast Asian questions about Chinese intentions and especially states' underlying fears that China is pursuing exactly what Fravel in this issue highlights — namely, a strategy of delay that will then be put to the wayside once China has the capacities to do so. As Womack puts it in his article, the South China Sea has become the material symbol of Southeast Asian uncertainties and insecurities *vis-à-vis* China. China's power is growing and in a situation of growing asymmetry, reassurance will require more than the logic of mutual gains ("win-win").³²

Carl Thayer similarly speaks to the difficulties involved in managing relations between larger and smaller powers but with special attention to Vietnam's predicament. If Goldstein's article highlights Chinese concerns about Vietnam taking advantage of China's weaknesses and distractions, Thayer gives attention to Vietnam's concerns about autonomy *vis-à-vis* its larger neighbour. In particular, Thayer details a series of Chinese actions that have renewed and intensified Vietnam's defence of its claims. Drawing on Womack's theory of asymmetry, Thayer examines China-Vietnam relations with reference to the general "structure of persistent asymmetry" that Vietnam's leaders must negotiate when dealing with its large and influential neighbour to the north. While a structure of asymmetry informs relations between all the Southeast Asian claimants and China, it is Vietnam for which the structure is most pronounced and acute. Of Southeast Asian claimants, Vietnam is the one most likely to find itself in a conflict situation with China. This is partly due to proximity and a common border — "the tyranny of geography" — and the additional problem of the Paracel Islands, which China has controlled since 1974. It is also partly due to the particular sensitivity of the relationship that requires more active and self-conscious efforts by both sides (China and Vietnam) to be sensitive to the needs of the other. Not surprisingly, this is the relationship for which the South China Sea has also proven to be the most challenging. Twice, the disputes have been the cause for military confrontations between China and Vietnam, where the latter lost ground. In 1974 Vietnam

lost the Paracels. In 1988 military confrontations resulted in over seventy Vietnamese casualties and a new Chinese physical presence in the South China Sea (where China occupied six previously vacant islets). Recent South China Sea exchanges once again feature the China-Vietnam relationship prominently. As articles in this issue highlight, 2009 and 2010 proved especially busy years in terms of the number of Chinese expulsions and detentions of Vietnamese fishermen, especially in waters near the Paracels, due to a combined increase of both Vietnamese fishing activity and Chinese regulatory/administrative attention.

As Thayer highlights, the resultant “souring of relations”, as well as the potential for conflict more serious than what in fact took place in 2009–10, speak to the special difficulties involved in maintaining this particular China-Southeast Asian relationship. The fact that greater conflict did not take place, argues Thayer, is indicative of the “mature asymmetry” that now characterizes the relationship. Defined by, above all, a mutual recognition and mutual appreciation for the other’s needs, mature asymmetry requires obligations from each side — an obligation from Vietnam (the lesser power) to exhibit deference to China (the larger power) and a reciprocating obligation from China to respect the interests and autonomy of Vietnam, its weaker neighbour.³³ Further, such relationships of mature asymmetry are critically not imposed, but ones that are carefully and self-consciously negotiated; they are based also on mutual recognition of one’s own limitations *vis-à-vis* the other. To quote Womack, the stability of the relationship is contingent on there being a *modus vivendi*, as opposed to a *modus dominandi*.³⁴ Mutual accommodations are thus critical. Maturity in relations will also be undergirded by a recognition of opportunity and benefit (as opposed to simply costs) that also supports expanded and institutionalized exchanges that underlies the ongoing “normalcy” of relations.³⁵ Noting that 2011 has returned relations to relative “normalcy”, Thayer concludes that the China-Vietnam relationship will require work and continued sensitivity on both sides about the other’s concerns but that ultimately, there is also a mix of mechanisms and “methods” in place³⁶ that help guard against a return to a relationship of more “hostile asymmetry”.

Thayer’s conclusion also speaks to the fact that China’s relations with Southeast Asia (and also the world in general) are much more extensive compared to, for example, the early-mid 1990s when the South China Sea was last a major issue. Put another way, recent commentary to the contrary, China’s regional engagement cannot be reduced to this one issue, and Chinese diplomacy of the last

decade was not all for naught. At minimum, ten years of mutual engagement have put in place a range of mechanisms and interests that serve to buffer and mediate specific tensions, in addition to keeping opportunities on the table. Nevertheless, China's relations with Southeast Asian states are, as highlighted, challenged by events. The expansiveness of China's claim, especially with reference to "historic waters" and historic claims, suggest a sense of regional entitlement that sit in tension with the message China has been trying to convey through what has otherwise been China's successful regional diplomacy. These tensions have to be reconciled and addressed if the South China Sea is not to remain the primary contradiction and "Achilles heel" (to use Kavi Chongkittavorn's characterization) in China-Southeast Asian relations.³⁷

Recognition of this contradiction is why Womack argues that China needs to be much more clear about specifying the "parameters" of its behaviour. Others like Li Mingjiang further suggest that China shift the basis of its Spratly claim. Rather than territorial or historic waters based on the nine-dashed line map, China could claim instead the Spratlys as a line of islands and other land features covered by UNCLOS.³⁸ Such a claim would still compete with others' claims but it would, as Patrick Cronin notes, have "the benefit of limiting suspicions that China's core interests are expanding".³⁹ It would also counter concerns that China approaches Southeast Asia with a sense of historical entitlement. In addition, it might be seen as an instance of reciprocation, with similarities to the Philippines' 2009 decision to claim the Spratlys as a "a regime of islands under the Republic of the Philippines" (instead of claiming them within the Philippine baseline) in response to Chinese pressure.⁴⁰

US-China Relations in Southeast Asia and Beyond

Given that the South China Sea has previously waxed and waned in prominence, it may be tempting to conclude that not much has changed about this dispute. The significance of the South China Sea has, however, grown larger — and that is due to two related changes and developments. As Womack points out, the developments are China's growing capabilities and (not coincidentally) the active interest of the United States in the dispute. On the first point, Goldstein echoes some of the themes in Fravel's discussion, especially how Chinese strategic thinking on the issue of the South China Sea has long reflected a view of its own weakness and disadvantage *vis-à-vis* other claimants. However, while "China's Navy has been weak for decades", China's

new “strength is clearly a new dimension of the equation, both for external observers and Chinese strategists alike”.⁴¹

Of the authors here, Womack and Goldstein are most explicit in characterizing US-China questions as fundamentally intertwined with recent South China Sea developments and their respective relations with Southeast Asian states. Much recent analyses focuses on perceived changes in China’s position and approach — conventional wisdoms that Goldstein challenges and qualifies — but what is of at least equal significance is the United States’ active interest in the disputes. While America’s principled position remains mostly the same — it maintains and will defend its strong national interest in freedom of the sea lanes — there have been changes in the US attention to, and interest in actively engaging, the dispute that introduce new and different dynamics to a dispute that has until now been mostly limited to Asian claimants. In fact, the United States had previously avoided getting involved even in the face of direct appeals from the Philippines. Why now? Womack argues that much is due to the relative power of China and, in particular, “changes in the big picture of regional and global relations since the beginning of the global crisis of economic uncertainty” that began in 2008. That crisis simultaneously increased the gap between China and the Southeast Asian states and decreased the gap between China and the United States. While China’s pre-2008 growth was already quite strong, the global crisis nevertheless had the effect of intensifying US fears and insecurities about ongoing strategic trends and a soon-to-be situation of “strategic stalemate” between the United States and China “on China’s maritime perimeter”. The combined developments of economic crisis, Chinese military modernization, as well as Taiwan’s election of Ma Ying-jeou, make 2008, for Womack, “a watershed year” as regards US interest in the South China Sea.

US concerns regarding the shifting power equation were reinforced in 2009. In March 2009 the USN *Impeccable* came into conflict with Chinese patrol boats 120 km off the coast of Hainan Island in what other analysts have identified as an especially significant event where US strategic thinking and interest in the South China Sea dispute is concerned.⁴² In May 2009 South China Sea claimants filed their UN claims and counter-claims, one of which included China’s nine-dashed map. As Womack puts it, “At this point the strategic worries of South East Asia overlap with quite different concerns of the United States”, with the expansiveness of China’s

claim a common focus. Douglas Paal has suggested that the United States had no choice but to involve itself in the South China Sea dispute if it did not wish to see a decline in regional influence.⁴³ But in responding to China's claims, the United States justified its intervention based on what some see as an expansive claim of its own — that is, its historic defence of “freedom of navigation”. For those in the US who worry about sea access (and denial), they cite the 2007 US Maritime Strategy that “proclaims the US Navy will preserve its capacity to ‘impose local sea control wherever necessary, ideally in concert with friends and allies, but by ourselves if we must’”.⁴⁴ However, a number of analysts, including Womack here, see the US's concern about “freedom of navigation” as exaggerated, more a legal cover for defending its maritime position and influence in Asia. At minimum, the US seeks to preserve its ability to continue surveillance activities (as in the case of the USN *Impeccable*).⁴⁵ In other words, the issue is less freedom of navigation in the sense of unhindered passage through the South China Sea — e.g., with trade, energy resources, etc. (something that is difficult to see China wanting to block given its own reliance on critical sea lanes in the South China Sea and elsewhere) — but instead, the fact that the United States stops to poke around. It is worth noting also that in addition to China, other states — including Malaysia, Indonesia, and India (which, like China, has also objected to specific incidents of US surveillance though it did not operationally interfere) and others⁴⁶ — have also expressed their objection to what they see to be an expansive interpretation of what activities are included under “freedom of navigation” on the part of the United States.⁴⁷ The fact that the United States is not a signatory to UNCLOS yet calls on others to abide by international law also tends to undermine the US position among those who oppose its interpretations of UNCLOS.

Nevertheless, the overlap of US concerns about the legality of foreign surveillance activities in EEZs and Southeast Asian states' different territorial and maritime jurisdictional concerns provided the opening for the United States to multilateralize and thus legitimate its specific strategic concerns through existing regional mechanisms such as the ASEAN Regional Forum (ARF) and ASEAN Defence Ministers' Meeting-Plus (ADMM-Plus), as it did in 2010. The fact that Hanoi was chair of ASEAN in 2010 may have been a coincidence, but Vietnam's own interest in internationalizing the dispute (as highlighted by Thayer) likely facilitated US efforts towards the same. Especially in the context of the last decade's general improvement

in China-Southeast Asian relations (over which there has been much fretting in the United States), Washington's ability to work with ASEAN states could also be seen as both pushback and a desired (and perhaps, needed) affirmation of its own position. At minimum, it has reinforced the Obama administration's general message to Asia since assuming office, namely, that "the US is back".⁴⁸

Unquestionably, US involvement has upped the stakes for China — but with possibly mixed effects for the dispute at hand. By one argument, Washington's intervention has been very effective. Certainly, this is the general view of those based in the United States. Washington, with support from key regional states, drew a clear line. More importantly, it "called out" China, which has in essence been trying to have it both ways (in its consolidation and continued defense of its vast South China Sea claims without harm to its ASEAN relations). The US intervention also provided new impetus for rejuvenating China and ASEAN's 2002 Declaration on the Conduct of Parties in the South China Sea (DoC) and the 2011 agreement on guidelines for its implementation.

At the same time, developments, especially from 2010, also suggest that US diplomatic intervention is not without some cost. For one, developments potentially have damaged what may be ASEAN's greatest resource — namely, its neutrality. While one can question the specific utilities of ASEAN in this dispute, the reputation of the organization nevertheless matters to how China prioritizes its regional relations (over, for example, narrower territorial gains). At minimum, actions taken at the ARF could be seen as confirming China's original fears and insecurities when it first began participating in ASEAN-arrangements nearly twenty years ago, namely, that others would use those mechanisms to "gang up" on China. Such developments also encourage minority views in China that China-ASEAN relations need reassessment. Put another way, South China Sea developments have bruised not just ASEAN states' views of China, but also some Chinese views of ASEAN. Goldstein notes that some of China's more belligerent commentary on the South China Sea, including some comments from those who have historically been more moderate, took place following Hillary Clinton's remarks at the ARF meeting in Hanoi in July 2010, which Goldstein has characterized as "a catalytic moment".⁴⁹

For another, Goldstein notes that the US entrance into the South China Sea dispute has also been at cost to US-China relations, making those relations "significantly worse than they could be". Goldstein

cites new strains between the two countries in Southeast Asia, as well as the Yellow and East China Seas. In the specific case of the South China Sea, US-China exchanges during 2010 and even 2011 provide examples of exaggerated charges and overreactions, including the “he said; she said” moment about whether or not Chinese officials in fact identified the South China Sea as a “core interest” in March 2010.⁵⁰ As Womack details, the allegation by US officials, including Hillary Clinton, that Chinese officials had identified the South China Sea as a “core interest”, along with the nine-dashed map, was an important factor contributing to the recent intensification of Southeast Asian insecurities.

Among the authors here, Goldstein gives greatest attention to the concept of “core interest”. He argues that analysts (typically American) use the “core interest” question in ways that tend to exaggerate the extent to which China’s South China Sea policy has changed or been militarized. Meanwhile, Chinese commentary can also overreact to US statements and involvement in ways that feed into more China-wary views in the United States. In this sense, the much debated “core interest” comment can also be seen as a product of increasingly fraught US-China exchanges over the course of 2009 and 2010, exchanges made worse by the fact that contact between the two militaries had been broken.⁵¹ Goldstein’s contribution is probably the most concerned about the trends in US-China relations and strategic thinking, with the South China Sea having emerged as “one of the most difficult areas of US-China relations”, overshadowing other notable efforts by China to play constructive regional and global roles.

The US-China dynamics currently playing out in the South China Sea also speak to some of the same challenges of managing asymmetric relations in the China-Vietnam case — albeit, here, the relationship is playing out under conditions of lessening, not growing, asymmetry. Both sides fail to appreciate sufficiently the other’s concerns: in the US case, its concerns about denial of access, marginalization from East Asia, and challenges to its privileged maritime position (this is new territory for the United States); and in China’s case, its fears that the United States will derail its growth (and thus stability) and deny it important international recognition. Ultimately, both sides share a burden for shaping the trajectory of their relations and more broadly, the nature of “China’s rise”. Too much of the recent commentary on the South China Sea overly focuses on China — What did it say? What has it done? What did it mean? — as if China were an actor making decisions independent

of those around it, when in fact its policies and strategic assessments are dynamic as it responds to the actions of others. Both Goldstein's tracing of naval assessments and his concluding caveats about US assessments of China and US policy speak to these points.

There is an argument to be made that just as much as lesser powers in conditions of great asymmetry demand reassurance, so too do rising ones that their security interests, and desire for recognition can be achieved within the existing structure of relations and international arrangements. The onus here, then, is on the larger power to provide that reassurance. Womack notes that especially in a situation of diminishing asymmetry, "the United States will be forced to treat China with respect or else it will make unhappy discoveries about the limits of its own power". The challenge, of course, is that the United States also has concerns and questions — of both the global order type and more narrowly self-interested ones about its own relative influence. Thus, openness and restraint are also required on China's part — a willingness to clarify ambiguities in its position, a commitment to keep talking despite differences, and an effort to guard against both overstatement and overreaction. Again, it will take effort on both sides if US-China differences on the South China Sea are not to spill over into other areas or transform relations into the new "Cold War" that some Chinese analysts highlighted in the Goldstein piece fear/anticipate.

Conclusion

To varying degrees, authors in this issue generally agree that conflict can be avoided and that there are spaces for potential compromise. Fravel, for example, cites historical precedents where China has been willing to make territorial compromises in support of larger strategic and political objectives; he also sees opportunities in China's exclusion of the Spratlys from its drawing of its baselines.⁵² Goldstein draws attention to the concern for moderation and compromise from China's senior leadership, as well as key naval higher-ups; Thayer highlights the mechanisms and interests that exist to counter more emotional and violent reactions. Womack, along with Fravel and Thayer, sees China and ASEAN states' 2011 agreement and attention to implementing the DoC as a significant recognition by states of the need to reduce tensions, especially as it involved critical and symbolic concessions, especially on the parts of China and Vietnam. Much like the original DoC, the 2011 agreement and

states' ability to overcome their stalemate expressed a common interest to ratchet down the dispute from where it was in 2009 and 2010. While acknowledging the need for "bolder" measures, Womack sees the DoC as both "reasonable" and "promising" as a framework that moreover can provide the basis for "a more robust Spratly Management Authority".

Most of all, authors mostly see the prospects for major conflict being mitigated by an unfavourable cost-benefit calculus where the costs of conflict and militarization will be high and the benefits far from clear. Certainly, this is true of Southeast Asia's weaker states, but it is also true of the major powers — China and the United States. For China, for example, Womack is strongest in seeing militarization of the dispute as contrary to China's "quarter century of broad and peaceful development" and reform-era policies and diplomacy that have served it very well. A South China Sea conflict scenario would also likely have ripple effects along China's periphery among other neighbouring and lesser states that are most vulnerable to Chinese power. Given the attention and priority that has been given to stabilizing China's periphery these past two decades, it hardly seems in China's interest to militarize the South China Sea in such a way that invites more active interventions from others in the seas around it, especially given its own reliance on those waters to get goods in and out. At minimum, militarization would divert resources and attention from both domestic and other global objectives, with active defence of claims requiring "diplomatic and military efforts of the utmost magnitude".⁵³ Womack is blunt in his argument that the Spratlys, in the larger scheme of Chinese objectives, is insignificant: "[T]here is no threshold of military superiority that would make it beneficial for China to establish its control over all the Spratlys at the cost of strategic hostility with Southeast Asia." By one argument, China has the most to lose with the militarization of the South China Sea dispute.

As for the United States, Goldstein is most direct in considering the risks and costs of US involvement. Much as is the case in his discussion on US assessments of China, Goldstein's concern is that too much is assumed of US power and attraction, and too much weight has already been placed on a dispute that is not that important to US larger interests or global balance of power. As already noted, Washington's diplomatic intervention has already been at cost to US-China relations in other areas. US-China tensions also

potentially push away Southeast Asian states who fear great power conflict more than they want the US to balance China.⁵⁴ Most of all, Goldstein warns the United States against “competing for the sake of competing” and to guard against over-involving itself in a conflict that risks US credibility, if not lives (as it did forty years ago in Vietnam).

At the same time, though authors generally conclude that the prospect for major conflict will be mitigated by the high costs involved, they also all raise concerns about the possibility of inadvertent conflict. US-China conflict that would make Southeast Asia once again a site of great power conflict is a particular concern, especially for Goldstein whose analysis of Chinese strategic thinking suggests a narrowing moment of opportunity for the United States and China to ensure more moderate voices (which thus far have been dominant) prevail. To end (and begin) on a Womack theme, the dangers of South China Sea waters have long been known, but whether today’s strategists and decision-makers will be able to avoid the dangerous ground of the Spratlys as they have historically done remains an open question. It is to the factors and dynamics shaping this question that these articles now turn.

NOTES

- ¹ While not a claimant, Indonesia has also taken an active interest in the dispute, especially after it became apparent in 1993 that the EEZ of the Natuna Islands overlapped with China’s nine-dotted line claim.
- ² The potential for the South China Sea to be a major hydrocarbon source has helped raise the stakes since the 1970s, beginning with survey reports prepared by the UN Economic Commission for the Far East. Since then, state, industry and academic reports have added to the speculation, with some recent Chinese reports characterizing the area as containing more oil than Iran and more natural gas than Saudi Arabia, and as potentially larger than Saudi reserves. However, these reports are considered highly speculative. What is more certain is growing Asian oil imports, with the International Atomic Energy Agency predicting a quadrupling of Asia’s net oil imports by 2030. See Daniel Ten Kate, “U.S. Sees No ‘Recent’ China Pressure on Oil Companies in South China Sea”, Bloomberg, 17 August 2010; Clive Schofield, Ian Townsend-Gault, Hasjim Djalal, Ian Storey, Meredith Miller and Tim Cook, “From Disputed Waters to Seas of Opportunity”, NBR Special Report no. 30 (July 2011).
- ³ See Brantly Womack, “The Spratlys: From Dangerous Ground to Apple of Discord”, *Contemporary Southeast Asia* 33, no. 3 (2011): 370–87.
- ⁴ See Peter Dutton, “Three Disputes, Three Objectives: China and the South China Sea”, *Naval War College Review* 64, no. 4 (Autumn 2011): 42–67.

- ⁵ For example, in addition to UNCLOS, China, Taiwan and Vietnam's claims refer to rights stemming from historic use. The Philippine claims also include the right of discovery.
- ⁶ See Schofield et al., "From Disputed Waters to Seas of Opportunity", op. cit.
- ⁷ For example, where coastal states previously limited their jurisdiction to three nautical miles, UNCLOS' provisions for EEZs and continental shelf claims extends coastal states privileges 200–350 nautical miles, introducing new overlapping jurisdictions, as well as one new claimant (Brunei).
- ⁸ For a short, but useful, parsing of China's claims, see Robert Beckman, "South China Sea: How China Could Clarify its Claims", *RSIS Commentaries* 116 (16 September 2010).
- ⁹ For example, the language of China's 2009 note can be considered conservative in its reference to "adjacent waters" as opposed to "historic waters", thus suggesting a narrower claim based on EEZs and territorial waters measured from Spratly Islands. While China's UNCLOS-based claims still conflict with Vietnam's and Malaysia's continental shelf claims, the fact that China referenced UNCLOS in its 2009 *note* (and then again in 2011) could be seen as strengthening the case for making UNCLOS the common framework in future efforts to resolve/manage the dispute. See *Ibid*.
- ¹⁰ See Fravel, "China's Strategy in the South China Sea", *Contemporary Southeast Asia* 33, no. 3 (2011): 292–319.
- ¹¹ It should be noted that China is not the only claimant to claim the entirety of the South China Sea. Taiwan and Vietnam also do.
- ¹² Beckman, "South China Sea: How China Could Clarify Its Claims", op. cit.
- ¹³ See Douglas H. Paal, "Beware the South China Sea", *The Diplomat*, 15 July 2011, <<http://the-diplomat.com/2011/07/15/beware-the-south-china-sea/>>. See also, Schofield et al., "From Disputed Waters", op. cit.; Robert Beckman, "South China Sea: Worsening Dispute or Growing Clarity in Claims", *RSIS Commentary* 90 (16 August 2010).
- ¹⁴ See, for example, Beckman, "South China Sea: How China Could Clarify Its Claims", op. cit.
- ¹⁵ See, for example, Brantly Womack, "China's Southeast Asia Policy: A Success for the Third Generation", *Cross Strait and International Affairs Quarterly* 1, no. 1 (2004): 161–83. For an overview of the trends, changes, and challenges in China-ASEAN relations, see also Alice Ba, "Re-navigating Relations for a 21st Century Asia", *Asian Survey* XLIII, no. 4 (2003): 622–47; Ba, "A New History? The Structure and Process of Southeast Asia's Relations with a Rising China", in *Contemporary Southeast Asia*, 2nd ed., edited by Mark Beeson (New York: Palgrave 2008), pp. 192–207.
- ¹⁶ Stein Tønnesson, "No Maritime Security Without Exclusive Economic Zones (EEZs)", Maritime Security in the SCS, Center for Strategic and International Studies, Washington D.C., 20–21 June 2011. See also Amitav Acharya, "Beyond the Chinese 'Monroe Doctrine'", *Straits Times*, 20 June 2011.
- ¹⁷ For an earlier study of an earlier period that makes a similar argument, see Selig Harrison, *China, Oil, and Asia: Conflict Ahead?* (New York: Columbia University Press, 1977).

- 18 Daniel Dzurek, "The Spratly Islands Dispute: Who's on First?", *Marine Briefing*, International Boundaries Research Unit 2:1 (1996).
- 19 Such views were expressed, for example, in some *Jeifanjun Bao* articles at the time. See FBIS, *Daily Report: China* (9 May 1990): 15–16.
- 20 Ian Storey details how the contradictions of Chinese foreign policy continued at least through 1998. Ian Storey, "Creeping Assertiveness: China, the Philippines and the South China Sea Dispute", *Contemporary Southeast Asia* 21, no. 1 (April 1999): 95–118.
- 21 See, especially, John Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests", *China Quarterly* 132 (December 1992): 999–1028.
- 22 See also, Lu Ning, *The Dynamics of Foreign Policy Decisionmaking in China*, 2nd ed. (Boulder, Colo.: Westview Press, 2000), pp. 134–41.
- 23 See Goldstein, "An Abundance of Noise", op. cit.
- 24 Ibid.
- 25 Womack, "The Spratlys: From Dangerous Ground to Apple of Discord", op. cit.
- 26 See, for example, Bonnie Glaser and Evan Medeiros, "Changing Ecology of Chinese Foreign Policy", *China Quarterly* (June 2007): 291–310; Joseph Fewsmith, "The Politics of China's Accession to WTO", *Current History* (September 2000): 268–73; Susan Shirk, *Fragile Superpower* (Oxford: Oxford University Press, 2007).
- 27 See Storey, "Creeping Assertiveness", op. cit.
- 28 See Li Mingjiang and Kwa Chong Guan, *China ASEAN Sub Regional Cooperation* (Singapore: World Scientific, 2011), pp. 6–7.
- 29 These details were offered by Li Mingjiang of the Rajaratnam School of International Studies in a discussion with the author in Singapore, 7 October 2011. See also Li Mingjiang, "Non-Confrontational Assertiveness: China's New Security Posture", *RSIS Commentary* 80 (16 May 2011).
- 30 These details were offered by Li Mingjiang of the Rajaratnam School of International Studies in a discussion with the author in Singapore, 7 October 2011.
- 31 For a discussion of China's larger national security objectives and the conditions and guidelines of China's "de facto grand strategy", see discussion in Michael Swaine, "China's Strategy and Security in the Post-Cold War Era", in *China's Rise in Historical Perspective*, edited by Brantly Womack (Lanham, MD: Rowman and Littlefield, 2010), pp. 89–106.
- 32 See Womack, "The Spratlys", op. cit. See also, Aileen Baviera, "China and the South China Sea: Time for a Code of Conduct?", *RSIS Commentary* 91 (14 June 2011).
- 33 See, especially, Chapter 10 in Brantly Womack, *China and Vietnam: The Politics of Asymmetry* (New York: Cambridge University Press, 2006).
- 34 Ibid., Chapter 10.
- 35 Ibid.
- 36 Thayer in this issue highlights a reliance on "past practice", downplaying contentious issues, and more than a little "diplomatic ritual".

- ³⁷ Kavi Chongkittavorn, "Southeast Asia Now Running a New Powerful Playground", *China Post*, 16 August 2010.
- ³⁸ See discussion in Patrick Cronin, "How China, US See Each Other at Sea", *The Diplomat*, 29 May 2011.
- ³⁹ Ibid.
- ⁴⁰ See, for example, Raissa Robles, "Beijing forces Manila retreat over Spratlys", *South China Morning Post*, 12 February 2009.
- ⁴¹ See Goldstein, "An Abundance of Noise", op. cit.
- ⁴² Bronson Percival, "Dangerous Waters: Exercise Caution", Conference on Maritime Security in the SCS, Center for Strategic and International Studies (CSIS), Washington D.C., 21 June 2011.
- ⁴³ Paal, "Beware the South China Sea", op. cit.
- ⁴⁴ Toshi Yoshihara and James R. Holmes, "Can China Defend a 'Core Interest' in the South China Sea", *Washington Quarterly* 34:2 (Spring 2011): 45–59. They quote the US Navy, Marine Corps, and Coast Guard, *A Cooperative Strategy for 21st Century Seapower*, October 2007, <<http://www.navy.mil/maritime/Maritimestrategy.pdf>>.
- ⁴⁵ In addition to Womack and Goldstein in this issue, see also B.A. Hamzah, "EEZs: US Must Unclench Its Fist First", *RSIS Commentaries* 37 (9 April 2009). As Hamzah put it, "If the Impeccable was, as claimed, to be exercising the right of navigation in the EEZ, it should have just sailed through and China would have no reason to be upset. Instead, the ship was in the area for several days." See also, Sam Batemen, "Clashes at Sea: When Chinese Vessels Harass US Ships", *RSIS Commentaries* 27 (13 March 2009); Mark J. Valencia, "Not an Impeccable Argument", *Policy Forum Online* 09-026A (1 April 2009). For the US view, see, for example, Patrick J. Neher, Raul A. Pedrozo and J. Ashley Roach, "In Defense of High Seas Freedoms", no. 31 (24 March 2009). For a brief but more comprehensive discussion of the issues in contention, see James Kraska, "Sovereignty at Sea", *Survival* 51, no. 3 (June 2009): 13–18.
- ⁴⁶ Brazil, Bangladesh, Myanmar, Cape Verde, Iran, Kenya, Uruguay, Maldives, Mauritius, North Korea, Pakistan, Portugal have also all sought to limit military activities in their EEZs. See Raul Pedrozo, "Coastal State Jurisdiction over Marine Data Collection in the Exclusive Economic Zone: US Views", in *Maritime Activities in the EEZ: A U.S.-China Dialogue on Security and International Law in the Maritime Commons*, edited by Peter Dutton (Newport, RI: Naval War College, 2010): 33, including fn 49. See also Kraska, "Sovereignty at Sea", op. cit.
- ⁴⁷ See, for example, Cronin, "How China, US See Each Other at Sea", op. cit.
- ⁴⁸ See, for example, "Clinton Declares, The U.S. 'Is Back' In Asia", Associated Press, 22 July 2009.
- ⁴⁹ In addition to Goldstein's article in this issue, see also Lyle Goldstein, "The South China Sea's Georgia Scenario", *Foreign Policy*, 11 July 2011, <http://www.foreignpolicy.com/articles/2011/07/11/the_south_china_seas_georgia_scenario>
- ⁵⁰ For a very interesting analysis of this debate and issue, see Michael Swaine, "China's Assertive Behavior: On Core Interests (Part I)", *China Leadership Monitor* 34 (22 February 2011).

- ⁵¹ As Ian Storey put it, “What’s particularly significant is that the two military (forces) aren’t talking and there are a lot of issues that they have to discuss.” See “Strained Sino-US Ties Cast Cloud Over Talks”, *Straits Times*, 23 July 2010.
- ⁵² See also Paal, “Beware the South China Sea”, op. cit.
- ⁵³ Yoshihara and Holmes, “Can China Defend A ‘Core Interest’?”, op. cit.
- ⁵⁴ See Goldstein, “An Abundance of Noise”, op. cit. Presentation to the US Department of Defense Capstone Exercise, Jakarta, 11 August 2010.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.